

# **MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS COMMITTEE**

**November 14, 2006 at 1:00 p.m.**

**Room W135, House Building, State Capitol Complex**

Members Present: Sen. Lyle Hillyard, Co-chair  
Rep. Ron Bigelow, Co-chair  
Sen. Gene Davis  
Sen. Mike Dmitrich  
Sen. Dan Eastman  
Sen. Sheldon L. Killpack  
Sen. Karen Hale  
Sen. Peter Knudson  
Pres. John Valentine  
Rep. Jeff Alexander  
Rep. Ralph Becker  
Speaker Greg Curtis  
Rep. Ben Ferry  
Rep. Patricia Jones  
Rep. Brad King  
Rep. Roz McGee  
Sen. Curtis Bramble, Vice Chair  
Rep. David Clark, Vice Chair

Members Excused: Sen. Ed Mayne  
Sen. Stephen Urquhart

Staff Present: John Massey, Legislative Fiscal Analyst  
Greta Rodebush, Legislative Secretary

Others Present: Tenielle Young, Governor's Office of Planning & Budget  
Juliette Tennert, LFA  
Chuck Chapell, Wasatch Front Regional Council  
Mayor Darrell H. Smith, Salt Lake County Council of Governments  
Mayor Dennis Nordfelt, Wasatch Front Regional Council  
John T. Nielson, Executive Judicial & Compensation Commission  
Rep. Merlynn Newbold  
Connie Steffen, LRGC  
Dr. Andrea Rorrer, Utah Education Policy Center  
Dr. Charles Hausman, Utah Education Policy Center  
Cori Groth, Utah Education Policy Center

A list of visitors and a copy of handouts are filed with the committee minutes.

## **1. Call to Order**

Committee Co-Chairman Lyle Hillyard called the meeting to order at 1:22 p.m.

**MOTION:** Rep. Bigelow moved to approve the minutes of October 17, 2006 with one correction on page six, paragraph five, that deletes the word “the” after “complimented” and before “Sen. Evans.” The motion passed unanimously with Sen. Davis, Sen. Eastman, and President Valentine absent for the vote.

Co-Chairman Lyle Hillyard noted that Sen. Ed Mayne asked to be excused from today’s meeting. He also welcomed Sen. Sheldon Killpack as a new member of the Executive Appropriations Committee. He will replace Sen. Beverly Evans who resigned from the Senate to take an appointment on the Governor’s staff.

## **2. Federal Funds Report**

Tenielle Young, Governor’s Office of Planning & Budget, presented the Federal Funds Report for the period October 1, 2006 through October 31, 2006. She indicated that there were no new grants requiring legislative action; however, there were five reapplications of existing grants with the Department of Natural Resources which require legislative action. Ms. Young also noted that one new grant and one reapplication for an existing grant had been approved by the Governor’s Office.

**MOTION:** Sen. Knudson moved to approve five reapplications requiring legislative action on the Federal Assistance Applications list, dated October 1, 2006 through October 31, 2006. The motion passed unanimously with Sen. Davis, Sen. Eastman, and President Valentine absent for the vote.

## **3. Salt Lake County Council of Governments - Review Transportation Priority Process**

Co-Chairman Hillyard clarified that Executive Appropriations would be reviewing the Salt Lake County Council of Governments proposed prioritization process and not engaging in the actual prioritization of proposed projects.

Sen. Killpack commented that H.B. 4001- County Option Funding for Regionally Significant Transportation Infrastructure, requires the council of governments to develop a written prioritization process that includes a weighted criteria system that will rank proposed transportation projects. The weighted criteria system shall include: (1) the cost-effectiveness of a project; (2) the degree to which a project will mitigate regional congestion; (3) the compliance requirements of applicable federal laws or regulations; (4) the economic impact of a project; (5) the degree to which a project will require tax revenues; and (5) any other provisions the council of governments considers appropriate.

Sen. Killpack emphasized to the committee that these transportation projects, both roads and transit, must have regional significance and mitigate congestion.

Mayor Darrell H. Smith, Draper City, and President, Salt Lake County Council of Governments (COG) introduced Mayor Dennis Nordfelt, West Valley City, Chair, Wasatch Front Regional Council, and Chuck Chappell, Executive Director, Wasatch Front Regional Council.

Mayor Smith commented that passage of the sales tax initiative in both Utah and Salt Lake Counties will move the process of planning regionally forward.

Mayor Nordfeld reviewed SL COG's prioritization process that included a one-page list of seven recommended weighted criteria that will be used to prioritize 33 regionally significant transportation projects. The criteria included: (1) congestion relief; (2) cost effectiveness; (3) community economic factors; (4) environmental factors; (5) safety; (6) project readiness; and (7) other provisions. He explained that a numerical formula will be embedded in the calculation process to evaluate a project's viability.

Rep. Jones asked about the science and subjectivity/objectivity of the criteria. Mayor Nordfeld explained that the process is an objective, scientific approach used in establishing priorities for transportation projects throughout the region and the United States.

Sen. Killpack expressed concern that the criteria may not be sufficiently defined to be clearly understood. Mayor Nordfeld indicated that they were prepared to go into a more detailed explanation of the prioritization process.

Sen. Bramble stated that it would be more appropriate to receive a detailed written proposal as required by statute rather than a verbal explanation. The one-page outline did not provide enough specificity as to how the weighted criteria system will be used to determine which transportation projects will be prioritized.

Rep. Bigelow asked for clarification on what was meant by congestion relief "by the project" or "in the project's corridor" and how it relates to regional congestion mitigation. In response, Chuck Chapell, Executive Director, Wasatch Front Regional Council noted two additional one-page handouts: 1) Definition and List of Potential Transit and Highway Projects, and 2) Proposed Criteria and Proposed Weight. He explained that the list of 33 transportation projects will be evaluated as to how they address the most congested corridors in the regions.

Sen. Killpack indicated that he did not have an issue with the criteria but would like to see more narrative detail in the form of a written weighted criteria system that lends clarity.

Sen. Eastman asked if the Transportation Commission and the Utah Department of Transportation (UDOT) had been actively involved in the development of the prioritization process. Mayor Nordfeld stated that both entities have been consulted. Mr. Chapell pointed out that legislation does not require that UTA or UDOT be included in the process.

Sen. Bramble indicated that a motion to move onto the next item on the agenda with a request that COG submit a detailed written prioritization process would be appropriate.

Sen. Hillyard would like the criteria to reflect possible conflicts between different funding mechanisms and asked if there are contingency plans been made when there are revenue shortfalls or increases in costs. Mayor Nordfeld indicated that the criteria “other provisions” includes subjective issues such as those raised by Sen. Hillyard.

Rep. Becker expressed opposition to the motion and that he was interested in hearing a full discussion from the local governments along with public comment.

**MOTION:** Pres. Valentine moved to move on to the next item on the agenda and requested that the Council of Governments (COG) provide the Executive Appropriations Committee with a more detailed written prioritization process at the earliest convenience. The motion passed with Sen. Dmitrich, Sen. Hale, Sen. Davis, Rep. Becker, Rep. McGee, and Rep. Jones voting in opposition to the motion. Rep. King was absent for the vote.

#### **4. Executive and Judicial Compensation Commission**

John T. Nielson, Chair, Executive and Judicial Compensation Commission, reviewed the Commission’s 2006 report on FY 2008 salary recommendations for the State’s elected officials, appointed agency and department heads, and the judiciary. They are as follows:

- *Elected Officials* - The Commission recommends that the Governor’s salary should first be established and the salaries of the remaining elected officials be set in accordance with a fixed percentage of the Governor’s salary. For FY 2008, the Commission recommends that the Legislature increase the Governor’s salary by an amount at least equal to the percent increase it approves for State employee salaries.

Further, the Commission recommends that the salaries of the State Auditor and State Treasurer be set at 95 percent of the Governor’s salary, the current rate at which the salaries of the Attorney General and Lieutenant Governor are set. The cost of this recommendation is approximately \$41,000 annually.

- *Appointed Officials* - The Commission proposes a new structure for the appointed officials covered in Utah Annotated Code §67-22-2, in which the four current executive salary ranges are collapsed into one broadband salary range. The proposed structure would allow for executives to be paid within a range higher than deputy and division directors within their departments and could provide an opportunity for executives to receive annual cost-of-living and market comparability adjustments that are commensurate with the adjustments of all other State employees.

The cost of implementing this recommendation would depend on actions of the Governor, who would set individual executive salaries within the permissible salary range.

- *Judicial Positions* - The Commission recommends that the salary for District Court Judge be increased by 11 percent for FY 2008 and then by 7 percent in the following two years. Other judges' salaries would be adjusted according to their percentage relationship to the District Court level as provided by law. It is anticipated that this increase would attract and retain qualified individuals to fill judicial vacancies. The cost to implement this recommendation for FY 2008 is approximately \$1.6 million.

Sen. Hillyard asked if the \$1.6 million figure represented just the 11 percent increase for FY 2008. Mr. Nielson verified that the increase covers an 11% increase in supreme court, district court, and juvenile court judge salaries for one year.

Pres. Valentine referenced a previous discussion that indicated that the salary of state auditor was lower than that of the state treasurer in the western regions. He asked that in light of the fact that the Commission has opted to make the auditors salary equal to that of the treasurer, has the situation changed elsewhere? Mr. Nielson responded that because they are constitutional officers and perform important functions, the state auditor and state treasurer should be compensated in like manner. Salary comparisons in other jurisdictions were not taken into account.

## **5. Report from Medicaid Interim Committee**

Rep. Merlynn Newbold and Sen. Sheldon L. Killpack, Co-chairs, Medicaid Interim Committee (MIC), gave a status report of the Medicaid Interim Committee. To date, the Medicaid Interim Committee has held five meetings with a sixth and final meeting scheduled for January 3, 2007. In addition to the status report, committee members were given a memorandum itemizing medicaid growth trends.

The report indicates that Medicaid is the second largest state budget item. In FY 2006, \$1.6 billion was appropriated to Medicaid, which accounts for approximately 18% of Utah's \$9 billion budget. Overall, Medicaid has an 11% average annual rate of growth in General Fund appropriations, compared to a 5.5% rate of growth in total General Fund appropriations.

Measures need to be put in place to control the overall growth in Medicaid. It was suggested that if the long-term average annual rate of growth in General Fund appropriations for Medicaid were reduced by one percentage point from 11% to 10%, a total reduction in payments over the period FY 08-22 would be as much as \$1 billion. This would not be a base budget cut, but a reduction in the average annual Medicaid funding increase.

Rep. Newbold indicated that in the 6<sup>th</sup> and final meeting, the Medicaid Interim Committee would be identifying specific recommendations and discussing what can be done about the rate of growth in the Medicaid budget.

Rep. King asked about the rate of growth of regular medical services outside of Medicaid?  
Sen. Killpack indicated that the national average for the rate of growth of medical services is about 9%.

Rep. McGee asked in regards to the 11% rate of growth in Medicaid compared to the 5.5% rate of growth in the General Fund, if those numbers referred to revenues or appropriations. Mark Andrews, LRGC, clarified that the memo compares Medicaid appropriations to State General Fund appropriations.

Rep. Alexander commented on the consideration to cut back inflationary increases by 1%. In looking at the over all General Fund budget, a 3-4% cut back may be more appropriate.

Sen. Davis commented on the match rate changes in state/federal funding. It is approximately \$2 federal to \$1 state. Rep. Jones asked about other options that could reduce medicaid costs other than reductions in medicaid services.

Rep. Newbold said that the preferred Drug List (PDL) was one of the suggestions from staff and the Department of Health. In two of the drug categories, Dr. Sundwall estimates the state may be able to save \$1.7 million. He commented that this may not be significant in the overall picture, but it is still a savings. There was discussion about what the actual PDL savings would be.  
Sen. Killpack said that Medicaid Part D has changed the original estimates.

Rep. Jones asked if there were other proposals presented to the Medicaid Interim Committee.  
Rep. Newbold mentioned that the Committee is studying the feasibility of consolidating the Medicaid eligibility systems of the Departments of Health and Workforce Services.

Sen. Hale commented that recommendations have been discussed exploring a variety of possibilities to help reduce costs. Items discussed were drug cost control measures, service prioritization, and in-home services.

## **6. Report on Charter Schools**

Connie Steffen, LRGC, brought to the committee's attention that the report consisted of three components: 1) Response to Questions about Charter Schools Regarding: Funding, Facilities, Assets and Liabilities, Technical Assistance, and Oversight; 2) A charter school audit report to be completed in December 2006; and 3) Utah Charter School Study by the Utah Education Policy Center.

Dr. Andrea Rorrer, Director, and Dr. Charles Hausman, Research Associate, Utah Education Policy Center, presented the Utah Charter School Study.

Dr. Rorrer stated that the purpose of the study was to acquire information about the optimal conditions relative to the current status of charter schools in Utah. Information was gathered about charter school purpose, authorization, governance, laws and regulations, training and technical

assistance, and reasons parents enroll or withdraw their children from charter schools. She pointed out that the study does not focus on the performance, effectiveness, and/or quality of charter schools.

Dr. Hausman's presentation focused on the sources of information parents use to make decisions around charter school attendance, reasons for choice, and parents' levels of satisfaction while attending charter schools.

An analysis of data revealed that the reasons for choice are clustered into five categories:

1) individualized attention (59.6%) is the most important reason for choosing a charter school emerging from the child wanting to attend the school with a specialized mission and programs suited to his or her interests and smaller classroom sizes; 2) quality of the academic program (47%) as reflected by the school's academic reputation, teachers, principal, and achievement test scores; 3) charter school's climate, specifically whether it is safe and inviting (39.3%); 4) dissatisfaction (33.5%) with their child's previous school and the belief that their child's needs were not being met; and 5) convenience (16%).

Dr. Rorrer highlighted eight study conclusions:

1. Many parents of students who currently attend charter schools chose to leave traditional public schools because they were dissatisfied with their local schools and /or districts.
2. An interest in an desire for charter school exists, but growth of charter schools should be contingent upon the resources and infrastructure to support reasonable and "responsible growth."
3. A number of participants were skeptical about conflicts of interest, particularly with regard to legislators and how these conflicts of interest influenced the expansion, authorization, and operation of charter schools.
4. There is a need for a clear, transparent authorization process, such as a sound business plan, sound educational program, and requirements for qualified personnel. They also suggested the need for an expanded time line for authorizing charter schools so that sufficient time is available for the school to open, prepare and organize around its mission.
5. Charter schools should be accountable to the public to operate high quality schools, accountable for high school performance levels, as are traditional schools, and accountable for the purposes they identify in their charter and for the purposes that are specified in state law.
6. Insufficient resources and the costs of duplicated services resulted in concerns about the ability of the state to support and operate two systems; consequently, the recommendation that the "dual system" between charter schools and traditional schools be eliminated.

7. The need for extensive professional development and technical assistance both prior to opening charter schools and on an ongoing basis.
8. Concerns regarding the implications of reported competition between charter schools and traditional public schools.

Dr. Rorrer suggested that future research focus on 1) the ways in which charter schools operate, including how they adhere to their stated purpose and those specified by state law; 2) the success of charter schools in individualizing the curriculum and improving student performance; and 4) how parents become more engaged in charter schools and decision making at charter schools.

Sen. Hillyard asked if parents are choosing charter schools because the traditional public schools do not have enough money? Dr. Rorrer said that the perception is not that the charter schools have more money but that they are doing more things with what they have. She reiterated that 90% of the parents surveyed indicated that they were choosing charter schools because of the individualization that their children receive and that class sizes are smaller. She pointed out however, that charter schools have insufficient resources when it comes to professional training and support for facilities.

Sen. Hale asked about board membership, governance, and authorization. Dr. Rorrer stated that participants indicated overwhelmingly that the State Board of Education should authorize charter schools. She also stated that it was not clear from this study why charter schools do not want the school districts to authorize charter schools. Further study is needed. Dr. Hausman said that of the sample schools, there were only two charter schools that had been authorized by the local districts.

Sen. Bramble asked if there is any thing that the public education community can learn and benefit from the charter school movement. Dr. Rorrer responded that the study brings out the clear message that parents want choice in programming, uniqueness, and individualized opportunities. Schools and districts are aware of this but lack the resources and time to implement programs. She also mentioned the need to change the perception that public schools are not safe; that in fact, schools have the infrastructure in place to insure the safety and well being of children.

Sen Bramble asked if parents want a different kind of choice other than what is currently defined within the public school system. Dr. Rorrer stated that the study shows that not all parents have that choice and the question remains as to how we can open the barriers within districts to increase the choice options for more parents.

Rep. King asked if the collaborative relationships between some districts and charter schools, are related to how fast a district is growing or the population of students declining. Dr. Rorrer indicated that information was not available due to the study's confidentiality.

Rep. Jones asked about "safe" schools. In her discussions with parents, the lack of discipline and respect in public schools are reasons why they would choose a charter school or a private school for their children. "Emotional safety" was important in the school environment. Dr. Rorrer added that



some parents feel that school uniforms lend to safe environment. Rep. Jones also if the study indicated the need to find schools that shared the same values as the parents. Dr. Rorrer said that while charter schools may share same values, the issue was not a predominant theme that surfaced.

Sen. Hillyard pointed out that the remaining two items on the agenda: 7. Department of Human Resource Management - FY 2008 Compensation Plan and MCA Report and 8. Report on Economic Development Incentives, had been addressed quite well with the documents provided. He noted that the salary compensation information prepared by Jeff Herring, Executive Director, DHRM, would be particularly important for next year and encouraged committee members to address this issue in their subcommittees.

**MOTION:** Rep. Bigelow moved to adjourn. The motion passed unanimously.

The meeting adjourned at 3:20 pm.